

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

OP.No. 30073 of 2000(E)

PETITIONER:

**MURUKESAN S.S., PRIMARY TEACHER,
A.R. NAGAR HIGH SCHOOL, CHANDAPURAYA
POST A.R.NAGAR, MALAPPURAM DISTRICT.**

**BY ADV. SRI.A.X.VARGHESE
SRI.M.RAMESH CHANDER**

RESPONDENTS:

- 1. STATE OF KERALA REP.BY
SECRETARY TO GOVERNMENT,
GENERAL EDUCATION, DEPARTMENT,
THIRUVANANTHAPURAM.**
- 2. DIRECTOR OF PUBLIC INSTRUCTION,
TRIVANDRUM.**
- 3. DEPUTY DIRECTOR OF EDUCATION, MALAPPURAM.**
- 4. DISTRICT EDUCATIONAL OFFICER, TIRUR**
- 5. GEETHAKUMARI.T.S. U.P.S.A., A.R.NAGAR,
HIGH SCHOOL, CHANDAPURAYA
POST A.R.NAGAR, MALAPPURAM DISTRICT.**
- 6. MANAGER, A.R.NAGAR HIGH SCHOOL,
CHANDAPURAYA, POST A.R.NAGAR, MALAPPURAM DISTRICT.**

**BY ADV. SRI.K.M.SATHYANATHA MENON
SRI.T.KRISHNAN UNNI
GOVERNMENT PLEADER SMT.T.B.RAMANI**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

OP. 30073/2000

**ORDER ON CMP. NOS.50894/2000,12979/2000,
55162/2000,57861/2000 IN OP. 30073/2000 - DISMISSED**

ORDER ON CMP. NO. 50973/2000 IN OP. 30073/2000 - CLOSED

27.06.2007

SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

**EXT.P1:- COPY OF THE REPRESENTATION TO THE 4TH RESPONDENT DT.
31.8.99.**

**EXT.P2:- COPY OF THE REPRESENTATION TO THE 4TH RESPONDENT ON
13.9.99.**

**EXT.P3:- COPY OF THE REPRESENTATION TO 3RD RESPONDENT DT.
6.3.2000.**

EXT.P4:- COPY OF THE OBJECTION TO THE 3RD RESPONDENT DT. 6.3.2000.

EXT.P5:- COPY OF THE ORDER NO.K.DIS B4-32733/99 DT. 20.3.2000.

**EXT.P6:- COPY OF THE REPRESENTATION TO THE 2ND RESPONDENT DT.
21.3.2000.**

EXT.P7:- COPY OF THE ORDER NO.EM(3) 28812/2000/K.DIS DT. 9.6.2000.

**EXT.P8:- COPY OF THE JUDGMENT IN OP.19290/02 DT. 11.7.2000 OF THE
HONOURABLE HIGH COURT OF KERALA.**

**EXT.P9:- COPY OF THE REVISION FILED BEFORE THE 1ST RESPONDENT DT.
21.7.2000.**

EXT.P10:- COPY OF THE HEARING NOTES BEFORE THE 1ST RESPONDENT.

EXT.P11:- COPY OF THE G.O.(Rt) NO.3939/200/G.EDN. DT. 26.9.2000.

EXT.P12:- COPY OF THE DEGREE MARKLIST OF THE B.A.DEGREE.

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EXT.P13:- COPY OF THE DEGREE CERTIFICATE ISSUED FROM THE CALICUT UNIVERSITY.

EXT.P14:- COPY OF THE CORRECT PICTURE A PROSPECTUS OF THE ZAMORINS GURUVAYURAPPAN COLLEGE, A COLLEGE, WHICH IS COMING UNDER THE CALICUT UNIVERSITY.

EXT.P15:- COPY OF THE GOVERNMENT ORDER G.O.(MS) NO. 177/87/G.EDN. THIRUVANANTHAPURAM DT. 22.8.1987.

/TRUE COPY/

tss

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.30073 of 2000-E

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Dated this the 27th day of June, 2007.

JUDGMENT

Petitioner and the 5th respondent aspired to be promoted as High School Assistant(Malayalam).

2. Petitioner possesses a Degree in Malayalam and the other relevant qualifications in terms of Rule 2(2)(b)(i) of Chapter XXXI of the Kerala Education Rules, hereinafter "KER", for short. The 5th respondent, the admitted senior of the petitioner, does not possess a Degree in Malayalam, in the sense, a Degree of graduate level, in Malayalam. However, she holds an M.A. Degree in Malayalam. The official respondents have promoted and approved the promotion of the 5th respondent in preference to the petitioner.

3. The short issue raised is as to whether the 5th respondent is incompetent in terms of the afore-referred rule in

as much as she does not possess a Degree in Malayalam at the graduate level but possesses only a Post Graduate Degree in Malayalam.

4. In **W.A.No.213/1997** (Kerala Public Service Commission v. Alex P. Kaleelazhikam), this Court held that the word "Degree" means a Bachelor's Degree as well as Master's Degree and unless the word "Degree" in the rule is qualified by the word "Bachelor" or "Post Graduate", it should not be understood to mean only a "Bachelor's Degree" and not a Post Graduate Degree. Following that decision of the Division Bench, this Court decided **Bose William v. State of Kerala** [2002 (2) KLT 34] holding that Bachelor's Degree or a Post Graduate Degree would be sufficient for the term "Degree" in relation to appointment of HSA (Social Studies). The learned counsel for the petitioner argued that those decisions relate to different situations and are not immediately referable to the case in hand because, it is not as if a Bachelor's Degree in Malayalam and a Post Graduate Degree in Malayalam are not part of the Degrees granted by the Universities in Kerala. He argued that going by the syllabi of the different Universities, it could be seen that the

quality of instruction available in the course leading to a Bachelor's Degree in Malayalam and that in the course leading to a Post Grade Degree in Malayalam need not necessarily end up in resulting in the same quality of academic attainment of the individual and therefore, in the realm of academics, it may be improper to read in an opinion by merely interpreting the rule. But such an issue no more survives for consideration because, the Government have, in their wisdom, by the Kerala Education (Amendment) Rules, 2002 which came into effect with effect from 22-8-1987, amended the provisions in Chapter XXXI KER by introducing the following proviso after sub-rule (2) of Rule 2:

"Provided that a post graduate degree in the subject or language concerned shall be considered as an alternative qualification of degree in such subject or language concerned for appointments as High School Assistant (Subject) or High School Assistant (Languages) as the case may be."

5. In the light of the aforesaid amendment to the rule, the arguments of the petitioner no more survive. The writ

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-: 4 :-

petition accordingly fails.

In the result, the writ petition is dismissed.

Sd/-

**THOTTATHIL B. RADHAKRISHNAN,
JUDGE.**

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No. 30073 of 2000-E

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JUDGMENT

Dated: 27th June, 2007.